IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

WP(C).No. 2384 of 2007(H)

OS.1476/2005 of PRL.M.C.,ERNAKULAM

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PETITIONER:

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1. A.T.VELAPPAN,
   S/O.LATE SRI.THEVAN, AMACHADI THURUTH,
   POOTHOTTA P.O., KANAYANNOOR TALUK, ERNAKULAM.

2. A.T.PRABHAKARAN,
   S/O.LATE SRI.THEVAN, AMACHADI THURUTH,
   POOTHOTTA P.O., KANAYANNOOR TALUK, ERNAKULAM.

BY ADV. SMT.C.G.BINDU
SMT.C.G.AJITHA

RESPONDENTS:

SALY MANOJ,
W/O.SRI.MANOJ KURIAKOSE, KUTTOMPARAMBIL HOUSE,
AMACHADI THURUTH, POOTHOTTA P.O., KANAYANNOOR
TALUK, ERNAKULAM.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/01/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.2384 OF 2007

Dated 19th January 2007

J U D G M E N T

Petitioners are defendants in O.S.1476/2005 on the file of Munsiff court, Ernakulam. Petitioners did not file written statement within time. An application was filed to receive the written statement filed out of time. Learned Munsiff allowed that application on payment of cost of Rs.1,500/-. Petitioners were not prepared to pay cost. They filed application to review that order. When that petition was pending, they filed another application for appointment of commission. Application for review was dismissed. Consequently application for appointment of commission was also dismissed. Petitioner again filed two applications to review those orders. Under Ext.P8 order learned Munsiff dismissed those applications also. This petition is filed under Article 227 of Constitution of India challenging Ext.P8 order.

2. Learned counsel appearing for petitioners was heard.

3. On hearing learned counsel appearing for petitioners, it is clear that petitioners could not pay the cost, as directed by the learned Munsiff. Because of wrong advice, petitioners have been filing petitions after petitions, with the hope that learned Munsiff would reduce the cost originally awarded. Ultimately, petitions were dismissed and parties were compelled to approach this court.

4. On hearing learned counsel appearing for petitioners and considering the interest of justice, petitioners are granted an opportunity to file an application before learned Munsiff after depositing the cost of Rs.1,800/-(Rupees One thousand eight hundred only) to be paid to plaintiff to receive written statement, which was allowed to be received as per order in I.A.2287/2006. If such an application is filed and cost is paid, learned Munsiff has to receive the written statement and proceed with the trial.

Writ petition is disposed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.